

**Harpswell Planning Board Meeting
Minutes of June 16, 2004**

Approved 7-21-04

Attendance: *Present:* Sam Alexander – Chairman, John Papacosma – Vice Chairman, Joanne Rogers, and Henry Korsiak – Associate Member. Noel Musson – Town Planner and Amy E. Ferrell – Planning Assistant were also in attendance. *Absent:* Dee Carrier and James Carignan.

Chairman Alexander appointed Henry Korsiak as a voting member.

Introductions and Pledge of Allegiance - The meeting had been advertised in the Times Record and recorded. Chairman Alexander called the meeting to order at 6:30 pm, introduced above Board members and staff, and led the pledge of allegiance.

Review of Agenda and Procedure - Chairman Alexander reviewed general Board procedures and the agenda for the evening. Chairman Alexander stated the Brewer application has been withdrawn due to the property owner withdrawing permission for use.

Approval of Minutes - The Board reviewed the minutes of 5/19/04. **Motion – To approve the minutes of May 19, 2004, as submitted. (Motion by Rogers and seconded by Papacosma; carried 4-0; Rogers)**

Site Visits Review - Chairman Alexander reported that on Monday, June 14, John Papacosma, Henry Korsiak and himself along with Town Planner Noel Musson visited the property of Stephen Reynolds, Harpswell; Kelly Baker, Great Island; Charles & Melinda Richter, Orr's Island; and Phyllis & Linda Blanton, Bailey Island.

OLD BUSINESS:

04-05-02 Diane Bibber-Oden (Phyllis and Linda Blanton – Owners), Reconstruction of Non-Conforming Structure; Renovation to Existing House and Basement Reconstruction; Commercial Fisheries 1, Tax Map 25-67, Garrison Cove Road, Bailey Island.

Chairman Alexander stated that the Board had received new information from the applicant as requested at last months meeting.

Applicant Presentation and Board Question – Diane Bibber-Oden corrected the measurement of the house which was presented to the Board incorrectly at 32' x 34', the correct measurement is 30' x 34' not including the sun porch. (40' including the sun porch) Ms. Bibber-Oden stated that they have applied for a LOMA and Brian Johnson, professional surveyor, stated that the property is not located in the floodplain. Town Planner Musson stated the Codes Office could not issue a building permit without a flood hazard permit or a LOMA. Chairman Alexander asked the status of the septic design. Town Planner Musson stated the Codes Office has reviewed the submitted design and has deemed it adequate; however, it has not been approved at the State level.

Chairman Alexander asked the applicant to explain to the Board why the Board should allow the structure to remain in the current footprint rather than have it moved back away from the high water mark. Ms. Bibber-Oden stated first, because Ms. Blanton does not have the financial capacity, and second because of her disability she cannot live in the house in its current condition. The builders are working to keep within Ms. Blanton's budget by leaving several existing walls and focusing a lot of the renovations on the old section of the house. Papacosma asked if they had received an estimate for the proposed reconstruction costs. Ms. Blanton stated the costs would be approximately \$114,000. Chairman Alexander asked what guarantees would there be that the mold wouldn't come back where the whole structure wouldn't be eliminated. Ms. Bibber-Oden stated the problems are located in the older section of the structure and in the basement area. Papacosma stated the Board could not address the financial issues or the disability when reviewing the application.

Board Review and Discussion – Chairman Alexander stated the Board needed to review section 10.3.2.2. of the Shoreland Zoning Ordinance. **Size of the Lot** – Ms. Bibber-Oden stated the lot size is .41 acres. **Slope of the Land** - Chairman Alexander stated the land slopes gradually to the shore. **Potential for**

Soil Erosion – Ms. Bibber-Oden stated the soils are very sandy and are not of good quality. Chairman Alexander didn't see a problem with potential soil erosion as long as good construction practices are used.

Location of Other Structures – Chairman Alexander stated the house is closest to the garage on the property. The garage will remain in the same condition. Chairman Alexander asked how much of the foundation will be replaced. Ms. Bibber-Oden stated approximately 53% of the existing foundation will be replaced. Sometime in the 1970's an addition was put on the house and a poured frost wall was constructed, the frost wall is still in good shape. A concrete floor needs to be poured in that area. Chairman Alexander asked if the structure would be raised during the foundation work. Ms. Bibber-Oden stated the structure will be raised approximately two feet. **Location of Septic System and Other On-Site Soils Suitable for Septic Systems**

– The existing system is between the house and the road. The proposed septic is in front of the garage to the south of the house. Ms. Bibber-Oden stated she spoke with a representative at Al Frick's office regarding the proposed location, and they stated the proposed location could be relocated anywhere on the property and is not an issue. **Type and Amount of Vegetation to be Removed to Accomplish the Relocation**

– Chairman Alexander stated it would be a matter of excavating a new basement if the structure was to be relocated and pouring a new foundation. As far as vegetation, it would not be not much different than raising the structure and putting a foundation beneath that.

James Carignan arrived and joined the Board.

Physical Condition and Type of Foundation Present – North side of the foundation which is poured concrete is in good condition. The older foundation to the south side is stone and also in good condition.

Chairman Alexander stated the Board needed to review section 13.4.7 of the Basic Land Use Ordinance.

13.4.7.1 – will maintain safe and healthful conditions. Chairman Alexander stated he didn't think this proposal would affect safe and healthful conditions because the applicant is having a new septic system installed. **Motion – The Board finds the applicant meets the standards of this section. (Motion by Chairman Alexander and seconded by Korsiak; carried 5-0)**

13.4.7.2 – will not result in water pollution, erosion, or sedimentation to surface waters. Chairman Alexander stated that if proper construction practices were followed, pollution, erosion, or sedimentation to surface waters would not be a problem. **Motion – The Board finds the applicant meets the standards of this section. (Motion by Chairman Alexander and seconded by Rogers; carried 5-0)**

13.4.7.3 – will adequately provide for the disposal of all wastewater. Chairman Alexander stated the applicant has an application pending approval for a new septic system. **Motion – The Board finds the applicant meets the standards of this section. (Motion by Chairman Alexander and seconded by Korsiak; carried 5-0)**

13.4.7.4 – will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat. **Motion – The Board finds the applicant satisfies the requirements of this section. (Motion by Carignan and seconded by Chairman Alexander; carried 5-0)**

13.4.7.5 – will conserve shore cover and points of access to inland and coastal waters. **Motion – The Board finds the applicant's proposal meets the requirements of this section. (Motion by Papacosma and seconded by Chairman Alexander; carried 5-0)**

13.4.7.6 – will protect archaeological and historic resources. Chairman Alexander stated the Board is unaware of any archaeological or historic resources associated with this property. **Motion – The Board finds the applicant meets the requirements of this section. (Motion by Chairman Alexander and seconded by Korsiak; carried 5-0)**

13.4.7.7 – will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries I or II District. This property is located in a commercial fishing district, but other structures around it are residential. **Motion – The Board finds that because the applicant's property and all abutting lots are residential in nature, the applicant meets the requirements of this section. (Motion by Chairman Alexander and seconded by Carignan; carried 5-0)**

13.4.7.8 – will avoid problems associated with flood plains development and use. Chairman Alexander stated that LOMA approval is still pending. **Motion – The Board finds the applicant meets the requirements of this section with the condition that an approved LOMA is received by the Town. (Motion by Chairman Alexander and seconded by Korsiak; carried 5-0)**

13.4.7.9 – is in conformance with the provisions of Section 15, Land Use Standards of the Shoreland Zoning Ordinance. Town Planner Musson recommended the Board look at the condition of the foundation, whether it would be practical to have the structure moved back. Papacosma stated the old foundation is going to be replaced due to the mold. Chairman Alexander also stated the building itself needed to be elevated to accomplish the new foundation work.

Board Review and Discussion – Chairman Alexander asked the applicant to explain what kind of drainage will be used around the foundation. Ms. Bibber-Oden stated the contractor intends on putting in a perimeter drain with the exception of the side where the existing septic system is located; a gutter system will be installed around the structure; in the basement, a higher PSI concrete will be used to stop infiltration of water into the basement; sump-pump will be installed, and asphalt waterproofing will be used on the outside. Chairman Alexander stated that in previous reviews when considering whether a structure met the greatest practical extent criteria, the main issue has been whether or not the setbacks met the greatest practical extent and not the value of or lack of existing an foundation. Papacosma stated the foundation is lacking due to the water moisture and mold problems.

Chairman Alexander stated after reviewing the application and being in the construction business and realizing the moisture penetration is the problem, it is his opinion that this building considering it needs to be elevated, 50% of the foundation needs to be replaced, drains installed and water proofing, basement/crawl space floor installed to help stop the moisture, the structure should be moved back towards the street the meet the setback to the greatest practical extent as outlined in the Town's ordinance. Based on his experience, he sees that there would be little difference in cost to completely move the structure back. Ms. Bibber-Oden stated she received prices from a foundation company giving them an estimate for doing the work where the structure is and moving the structure, the difference in cost would be \$11,200.00.

Papacosma stated he is essentially in line with the Chairman and feels that if the structure were to be built new, the applicant would have the greatest assurance of not having any residual mold problems. Papacosma would vote to have the structure moved back to the greatest practical extent since the septic system and well can be accommodated accordingly.

Rogers agrees that moving the structure back to the greatest practical extent is the appropriate decision and would vote in favor of doing that under the circumstances.

Korsiak concurs that the structure needs to be moved back given that the Board seems to have previous precedent in considering greatest practical extent and that the setbacks seem to have the highest priority and would recommend the structure be moved back.

Carignan stated he feels the statement greatest practical extent is a very ambiguous notion and sometime the Board should use the intended ambiguity to try to interpret it in such a way as to make sense. From an economic or health point of view, one could say these points could be argued to leave the structure in the existing foot print.

Motion – The Board finds that the applicant's proposal relating to Section 10.3.2.2. of the Shoreland Zoning Ordinance, the structure can be moved to a more conforming location and so doing meet the intent of the Ordinance in that it would be moved back to the greatest practical extent in considering the criteria in this section. (Motion by Papacosma and seconded by Chairman Alexander; carried 4-1)

Chairman Alexander reviewed appeal procedures.

Applicant Presentation – Kelly Baker stated to the Board that he was issued a building permit to add a second story within the 30% expansion and remodel the first floor. Once he started the work, it became clear that the walls and floors were not structurally sound enough to support a second story. The foundation is in excellent condition and the basement is dry. Mr. Baker explained that in order for the work to be done satisfactorily, it would be necessary to remove the walls and existing floor which puts him outside the limits of the original permit requiring him to come before the Planning Board.

Board Review and Discussion – Chairman Alexander reviewed the dimensions of the lot and the setback measurements. The Board discussed the location of the septic and leech field. Planner Musson recommended Mr. Baker check with the Codes Office who has the lot as having a grandfathered holding tank. Mr. Baker stated he had the tank snaked which goes out to the front yard where the leech field is located. Chairman Alexander stated there was nothing conforming about this lot. He asked if the well was shared. Mr. Baker stated that he has a well on the north side of the property behind the shelter. Chairman Alexander stated the lot was relatively level. Mr. Baker stated it has a small slope to the right towards the road. Mr. Baker stated he intends to remove the covered shelter on the property and may or may not remove the shed. Chairman Alexander stated the Board needed to review section 10.3.2.2. of the Shoreland Zoning Ordinance. Papacosma stated that due to the size of the lot and the location of the septic and well, there would be no place to move the structure. Chairman Alexander stated the Boards considered the size of the lot, the slope of the land, potential for soil erosion, other structures, septic system, the well on the site. Chairman Alexander stated the type and amount of vegetation to be removed would be none. Chairman Alexander stated the foundation is concrete block on a concrete footing which is in good condition.

Motion – The Board finds the application meets the setback requirements to the greatest practical extent. (Motion by Chairman Alexander and seconded by Papacosma; carried 5-0)

Chairman Alexander stated the Board needed to review section 13.4.7 of the Basic Land Use Ordinance.

13.4.7.1 – will maintain safe and healthful conditions. – The Board finds the proposed plan meets the standards of this section. (Motion by Carignan and seconded by Chairman Alexander; carried 5-0)

13.4.7.2 – will not result in water pollution, erosion, or sedimentation to surface waters. Motion – The Board finds the applicant meets the standards of this section. (Motion by Chairman Alexander and seconded by Papacosma; carried 5-0)

13.4.7.3 – will adequately provide for the disposal of all wastewater. Chairman Alexander stated there is an existing septic system and a previously issued building permit. **Motion – The Board finds the applicant meets the standards of this section. (Motion by Chairman Alexander and seconded by Carignan; carried 5-0)**

13.4.7.4 – will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat. Motion – The Board finds the application will not disturb any of these areas and satisfies the requirements of this section. (Motion by Carignan and seconded by Rogers; carried 5-0)

13.4.7.5 – will conserve shore cover and points of access to inland and coastal waters. Motion – The Board finds this section does not apply due to the location of the lot. (Motion by Papacosma and seconded by Chairman Alexander; carried 5-0)

13.4.7.6 – will protect archaeological and historic resources. Chairman Alexander stated the Board is unaware of any archaeological or historic resources associated with this property. **Motion – The Board finds the applicant meets the requirements of this section. (Motion by Chairman Alexander and seconded by Papacosma; carried 5-0)**

13.4.7.7 – will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries I or II District. This property is located in a commercial fishing district. **Motion – The Board finds that the applicant meets the requirements of this section. (Motion by Chairman Alexander and seconded by Papacosma; carried 5-0)**

13.4.7.8 – will avoid problems associated with flood plains development and use. And, Chairman Alexander stated the property is not located in the flood plain. Motion – The Board finds the applicant meets the requirements of this section. (Motion by Carignan and seconded by Chairman Alexander; carried 5-0)

13.4.7.9 – is in conformance with the provisions of Section 15, Land Use Standards of the Shoreland Zoning Ordinance. Chairman Alexander asked the applicant if he intended on digging any ditches. Mr. Baker stated he was not planning on doing anything to the ground. Papacosma stated it is a non-conforming lot, setbacks have been reviewed. **Motion - The Board finds the applicant meets the Land Use Standards of Section 15 of the Shoreland Zoning Ordinance. (Motion by Papacosma and seconded by Rogers; carried 5-0)**

Motion – The Board approves the application as submitted and finds it meets the setbacks to the greatest practical extent. (Motion by Carignan and seconded by Rogers; carried 5-0)

Stephen Reynolds, Reconstruction of Non-Conforming Structure; Replace Existing Garage with a New Two Car Garage, Boat Storage, and Out-Building, Commercial Fisheries 1, Tax Map 7-21, Neils Point Road, Harpswell.

Applicant Presentation – Stephen Reynolds stated there is an existing one and half car garage and an 8' x 12' outbuilding on his property. The garage was on the property when he bought it in 1979 and has deteriorated over the years and would like to replace it with a new garage/boat storage area. Mr. Reynolds proposes to move the location of the garage in from the property line an additional 11 feet; however, he can't move it into total compliance with the setbacks because of the well location. Mr. Reynolds stated he looked at other locations on the property and wishes to have the option available in the future to move the house back further away from the water, and use the left side of the property for a new septic system. Based on the property setback, location of the well, and the vegetation, Mr. Reynolds feels his proposal meets the requirements of the greatest practical extent. Planner Musson also noted the location of other structures on the site and the future planning of the site. The existing house is all non-conforming and in a couple of years Mr. Reynolds plans on reconstructing the house and would like to move it back closer to the garage and away from the water setbacks.

Board Review and Discussion – Chairman Alexander asked if the lot was relatively level. Mr. Reynolds stated it was with the exception of the grade near the high water line. Chairman Alexander stated the lot size was 21,312 square feet. Chairman Alexander reviewed that the expansion of the structure was within the allowed 30%. Chairman Alexander asked if there was an existing septic system. Mr. Reynolds stated what was there was unknown; however, he has had someone look at the lot to determine the best location for a new system. Chairman Alexander stated that the applicant does not propose to cut any trees down with this proposal.

Motion – The Board finds the application meets the setback requirements to the greatest practical extent as outline in section 10.3.2.2 of the Shoreland Zoning Ordinance. (Motion by Chairman Alexander and seconded by Carignan; carried 5-0)

Chairman Alexander stated the Board needed to review section 13.4.7 of the Basic Land Use Ordinance.

13.4.7.1 – will maintain safe and healthful conditions. – The Board finds the proposed plan meets the standards of this section. (Motion by Carignan and seconded by Rogers; carried 5-0)

13.4.7.2 – will not result in water pollution, erosion, or sedimentation to surface waters. Motion – The Board finds the applicant meets these standards as presented in the application. (Motion by Rogers and seconded by Papacosma; carried 5-0) Chairman Alexander asked the applicant if the existing garage will be removed. Mr. Reynolds stated he will be removing is and placing a slab down for the new garage, he does not plan on doing any digging.

13.4.7.3 – will adequately provide for the disposal of all wastewater. Motion – The Board finds the applicant meets the standards of this section because there will be no waste water generated. (Motion by Chairman Alexander and seconded by Carignan; carried 5-0)

13.4.7.4 – will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat. Motion – The Board finds the application will not have any adverse affects on spawning grounds, fish, aquatic life, birds, or any other wildlife habitat and meets the requirements of this section. (Motion by Papacosma and seconded by Chairman Alexander; carried 5-0)

13.4.7.5 – will conserve shore cover and points of access to inland and coastal waters. Motion – The Board finds the applicant meets the standards of this section as none of these items will be disturbed. (Motion by Chairman Alexander and seconded by Papacosma; carried 5-0)

13.4.7.6 – will protect archaeological and historic resources. Motion – The Board finds the applicant meets the requirements of this section as there is no evidence to any archaeological or historic resources attached to this property. (Motion by Carignan and seconded by Chairman Alexander; carried 5-0)

13.4.7.7 – will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries I or II District. This property is located in a commercial fishing district; however, there are no commercial fishing activities in the area. Motion – The Board finds that the applicant meets the requirements of this section. (Motion by Carignan and seconded by Chairman Alexander; carried 5-0)

13.4.7.8 – will avoid problems associated with flood plains development and use. And, Chairman Alexander stated that a portion of the property is located in the flood plain; however, the proposed site is not in the flood plain. Motion – The Board finds the applicant meets the requirements of this section. (Motion by Chairman Alexander and seconded by Rogers; carried 5-0)

13.4.7.9 – is in conformance with the provisions of Section 15, Land Use Standards of the Shoreland Zoning Ordinance. Motion - The Board finds the applicant meets the Land Use Standards of Section 15 of the Shoreland Zoning Ordinance. (Motion by Carignan and seconded by Rogers; carried 5-0)

Motion – The Board approves the application as submitted and finds it meets the setbacks to the greatest practical extent in accordance with section 10.3.2.2 of the Shoreland Zoning Ordinance and section 13.4.7 of the Basic Land Use Ordinance. (Motion by Chairman Alexander and seconded by Carignan; carried 5-0)

Planners Updates-
None

Adjournment - Motion to adjourn at 8:15 pm. (Motion by Carrier and seconded by Chairman Alexander; carried 5-0)

Respectfully submitted,

Amy E. Ferrell
Planning Assistant